REMARKS

This Amendment is filed in response to the Office Action mailed on February 10, 2005. All objections and rejections are respectfully traversed.

Claims 1-51 are in the case.

No claims were amended.

No Claims were added.

At paragraph 1 of the Office Action, claims 32, 43, and 51 were rejected under 35 U.S.C. 101 because the claims claim electromagnetic signals carrying instructions for performing steps, and are therefore not tangible and so are unstatutory.

The present invention, as set out by representative claim 32, comprises in part:

32. Electromagnetic signals propagating on a computer network, comprising:
said electromagnetic signals carrying instructions for execution on a processor for the practice of a method for management of application processes in a computer network, the method having the steps of,
adding a new application process to execute on a server computer;
transmitting by the new application process, in response to the new application process being added, a registration service request to a process manager software executing on a workstation;
receiving the registration service request by the workstation; and
identifying by management software executing on the workstation that the new application process is executing on the server computer.

Applicant respectfully urges that the novel method steps are tangibly embodied in the electromagnetic signals propagating on the computer network. Further, Applicant respectfully urges that the embodiment of electromagnetic signals for transfer of ***instructions for execution on a processor for the practice of the method of*** between computers fully satisfies all requirements of 35 U.S.C. § 101, and all requirements set out in the MPEP.

That is, Applicant respectfully urges that embodiment of the instructions in electromagnetic signals meets all of the requirements of 35 U.S.C. § 101, especially as clarified by MPEP 2106 IV, B, 1(c) at page 2106 of MPEP 8th Edition Incorporating Revision No. 2. (hereinafter MPEP 2106 IV, B, 1(c)). Further, MPEP 2106 IV, B, 1(c) states, at page 2106:

"However, a signal claim directed to a practical application of electromagnetic energy is statutory regardless of its transitory nature, see *O'Reilly* 56 U.S. at 114-19; *In re Breslow*, 616 F. 2d 516, 519-21, 205 USPQ 221, 225-26 (CCPA 1980)."

In the case *In re Breslow* claims were permitted by the Court (CCPA) to chemical species which are transient in nature, and cannot be separated out of the mixture in which they are created. The MPEP cites this patentability of transitory phenomena in chemical

reactions in support of the statement by the MPEP, "However, a signal claim directed to a practical application of electromagnetic energy is statutory regardless of its transitory nature".

The important point for patentability is the practical application of electromagnetic energy. And a practical application of electromagnetic energy is transmission of a computer program over a computer network, where the computer program is for the practice of a novel method. This practical application of electromagnetic energy is patentable subject matter, as explained by MPEP 2106 IV, B, 1(c).

A copy of *In re Breslow* from 205 USPQ 221 is attached to this Amendment, for the convenience of the Examiner.

Applicant respectfully urges that imbedding instructions for execution on a processor in an electromagnetic signal propagating on a computer network meets the practical application requirements of 35 U.S.C. § 101 and of MPEP 2106 IV, B, 1(c), and that claim 34 therefore claims statutory subject matter. Also, Applicant respectfully urges that claims 51 and 53 claim statutory subject matter under 35 U.S.C. § 101 and MPEP 2106 IV, B, 1(c).

At paragraphs 2-3, Claims 1, 2, 7-9, 14-18, and 21-51 were rejected under 35

U.S.C. § 102(e) as being anticipated by WALDO, U.S. Patent 6,185,611.

Applicant respectfully notes that on October 5, 2004, Applicant filed an inventor's Affidavit under 37 C.F.R. 1.131 swearing behind the WALDO patent.

At Page 20 of the Office Action, at numbered paragraph 2, the Affidavit filed on

October 5, 2004 is indicated to have been considered but found to be ineffective to overcome the WALDO patent U. S. Patent No. 6,185,611. The examiner states:

"The evidence submitted was found to be insufficient to establish due diligence from a date prior to the date of reduction to practice of the Waldo reference to either a constructive reduction to practice or an actual reduction to practice. Applicant states that the authored document establishes reduction to practice of the invention up to the filing of this application, however, there is no showing within the document or any other evidence that the invention was reduced to practice from the alleged date of conception."

Applicant respectfully urges that the evidence submitted in the Affidavit at Paragraphs 3-5 of the Affidavit, which states:

"3. To establish the date of completion of the invention of this application, the following attached document is submitted as evidence:

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"Running Java Classes Over There", authored by the undersigned affiant, no internal date in the document, however by looking at the properties of the document I can determine that it was created and modified in October 1997. As the document says, by that date I had working prototypes of the designs claimed in the above identified U. S. Patent Application.

4. From this document, written by the inventor, it can be seen that the invention in this application was made at least by the date of October 1997, which is a date earlier than the effective date of the reference.

DILIGENCE

5. Applicant acknowledges through this declaration that Applicant acted with diligence in the completion of the invention from the time of his conception, to a time just prior to the date of the reference, up to the filing of this application."

The Affidavit establishes the date of conception as before October 1997.

Waldo, U.S. Patent No. 6,185,611 issued February 6, 2001, was filed on March 20, 1998.

Accordingly, a document showing due diligence between October 1997 and March 20, 1998, will satisfy the Examiner's request for a showing of due diligence.

Therefore, a copy of a document written by the inventor Fred Niemi entitled "EDS V1.0 & NESTOR V1.0, System Functional Specification" and dated May 20, 1999, is enclosed herewith as evidence of the required due diligence.

Applicant respectfully notes that at Page 2 of the document "EDS V1.0 & NES-TOR V1.0, System Functional Specification" a revision history is set out as:

A	09/04/97	First Draft
B	09/26/97	Revised Event Model to provide better/easier filtering . . .
C	12/08/97	Updates from EDS class . . .
D	03/23/98	Updated class names . . .

Applicant respectfully urges that the due diligence illustrated by the enclosed document entitled "EDS V1.0 & NESTOR V1.0, System Functional Specification" and dated May 20, 1999, and written by the inventor Fred Niemi, satisfies the request by the Examiner for a showing of due diligence.

Further, the Affiant stated, as quoted above: "Applicant acknowledges through this declaration that Applicant acted with diligence in the completion of the invention from the time of his conception, to a time just prior to the date of the reference, up to the filing of this application." Applicant therefore respectfully urges that this sworn statement by the Affiant, along with the document entitled "EDS V1.0 & NESTOR V1.0, System Functional Specification" and dated May 20, 1999, in combination, establish the required due diligence.

Accordingly, Applicant respectfully requests that the Waldo patent U. S. No.
6,185,611 issued February 6, 2001, be removed as a reference against the present application for U.S. Patent.

At paragraphs 4-5 of the Office Action Claim 10 was rejected under 35 U.S.C.
103(a) as being unpatentable over WALDO in view of "Monitoring Distributed Systems"
by JOYCE.

Applicant respectfully notes that Claim 10 is a dependent claim, and is dependent
from an independent claim which is believed to be in condition for allowance. Accordingly, Claim 10 is believed to be in condition for allowance.

At paragraph 6 of the Office Action claims 12 an 19 were rejected under 35
U.S.C. 103(a) as being unpatentable over WALDO in view of "Unifying Distributed
Processing and Open Hypermedia through a Heterogeneous Communication Model" by
GOOSE, et al.

Applicant respectfully notes that claims 12 and 19 are both dependent claims, and
each is dependent from an independent claim which is believed to be in condition for allowance. Accordingly, Claims 12 and 19 are believed to be in condition for allowance.

At paragraph 7 of the Office Action, claims 3 and 4 were rejected under 35 U.S.C. 103(a) as being unpatentable over WALDO in view of "Red Hat Linux Unleashed" by Hussain.

Applicant respectfully notes that claims 3 and 4 are both dependent claims, and each is dependent from an independent claim which is believed to be in condition for allowance. Accordingly, Claims 3 and 4 are believed to be in condition for allowance.

At paragraph 8 of the Office Action Claims 5 and 6 were rejected under 35 U.S.C. 103(a) as being unpatentable over WALDO in view of HUSSAIN, and also by GOOSE.

Applicant respectfully notes that claims 5 and 6 are both dependent claims, and each is dependent from an independent claim which is believed to be in condition for allowance. Accordingly, Claims 5 and 6 are believed to be in condition for allowance.

At paragraph 9 of the Office Action, Claims 8, 15, 22, 23, 25, 26, 28, 29, 31-34, 36, 37, 39, 40, and 42-51 were rejected under 35 U.S.C. 103(a) as being unpatentable over "Monitoring Distributed Systems" by JOYCE in view of BONNELL U. S. Patent No. 5,655,081.

Applicant's invention, as set forth by representative claim 8, comprises in part:

8. A computer workstation for use in a computer network having at least one process manager, the workstation comprising:

at least one application or process;

a network communication facility;

a user interface application; and

a configuration service layer in communicating relationship with the at least one application or process and the network communications facility,

wherein the at least one application or process and the configuration service layer cooperate to generate and issue, through the network communication facility, a registration service request to the at least one process manager upon opening of the at least one application or process at the computer workstation and wherein the process manager is configured to generate and forward a notification message that identifies the new application or process to the user interface application in response to receiving the registration service request.

Joyce discloses independent processes executing on a plurality of computers. In each computer, there is a "channel" process which detects interesting information from one or more processes executing on that computer, and upon detecting such information from processes executing on that computer, packages the information and sends the information to one or more consoles. The consoles are then used to monitor the processes on the plurality of computers, where the monitoring is based on the information sent to the consoles by the "channel" processes. A console is normally a process running on a specific workstation. A "send event" from a channel process may be blocking, that is the channel process blocks execution of the process which it is monitoring, and does not un-block the process until the channel process receives a response from a console. Upon receipt of a response, the channel process may un-block the process which it is monitoring, in order to prevent an illegal sequence of events in the process being monitored.

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Bonnell discloses a management software system running on one computer, and a plurality of server software systems with agent software monitoring the servers. The agents send messages to the management software giving events, values, etc. read from their servers. The management software can instruct the agent as to which data it wants to receive, and the agent keeps the data needed to satisfy the console, and does not waste resources by keeping extra data. An agent may act as a higher level agent collecting data from sub-agents, and then send the collected data to the management software.

Applicant respectfully urges that neither Joyce nor Bonnell disclose Applicant's claimed novel *the at least one application or process and the configuration service layer cooperate to generate and issue . . . a registration service request to the at least one process manager upon opening of the at least one application or process at the computer workstation and wherein the process manager is configured to generate and forward a notification message that identifies the new application or process to the user interface application in response to receiving the registration service request.*

That is, Applicant claims *the at least one application or process and the configuration service layer cooperate to generate and issue . . . a registration service request to the at least one process manager upon opening of the at least one application or process at the computer workstation.* Applicant claims an *application process* which,

upon opening of the at least one application process, the application process registers with the process manager. In response the process manager forwards notice of the registration to a user interface.

In contrast, both Joyce and Bonnell disclose monitoring agents which obtain data from processes which they are monitoring, and send that data to a monitoring console or workstation.

Both Joyce and Bonnell are silent concerning a *process*, which *upon opening*, sends a *registration request* to a *process manager*, and then the process manager *identifies the registration to a user interface*.

Further, both Joyce and Bonnell are silent concerning *a process*, which upon opening, sends *a registration message* to a process manager.

Accordingly, Applicant respectfully urges that Joyce and Bonnell, taken either singly or in any combination are legally precluded from rendering the presently claimed invention obvious under 35 U.S.C. § 103 because of the absence from both of Applicant's claimed novel *the at least one application or process and the configuration service layer cooperate to generate and issue . . . a registration service request to the at least one process manager upon opening of the at least one application or process at the computer workstation and wherein the process manager is configured to generate*

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and forward a notification message that identifies the new application or process to the

user interface application in response to receiving the registration service request.

Further, at Page 21 of the Office Action, the Examiner responds to Applicant's

arguments from the previous Amendment. The Examiner urges that Joyce in view of

Bonnell render the present invention unpatentable under 35 U.S.C. 103(a). The Examiner

states:

> "The examiner disagrees. Joyce teaches monitorable processes
> that are monitored by channel processes. The monitorable process gener-
> ate monitorable events which are defined as any Jipc process operation
> that may have an effect outside of that process. A monitorable event oc-
> curs whenever a process initiates or completes any of the following opera-
> tions: entering or leaving a Jipc system, creating or killing a process, etc.
> (pg. 128). Joyce states that when an event is detected in a monitorable
> process, information concerning this event is sent to the channel process
> that is executing on the same machine (pg. 129, 2nd paragraph; pg. 129,
> 6th paragraph, "When an event is about to occur in a monitorable process,
> monitoring information is conveyed to the channel."). Joyce then states
> that when a controller exists, all channels forward their monitoring mes-
> sages to the controller, which sends the information to consoles (pg. 129,
> 6th paragraph - pg. 130, 2nd paragraph). Consoles collect, interpret, and
> display event information and serve as the interface between users and the
> monitoring system. In responding to Applicant's argument that the proc-
> ess does not send anything to the process manager, the reference teaches
> that the process sends an event to the channel, controller, and eventually
> the console. Therefore, the process does send data to the process manager.
> In addition, since this information is an operation that indicates that a pro-
> cess has initiated or created another process, the information is registration
> information. Joyce also teaches the monitoring system is a distributed
> monitoring system. However, Joyce does not teach that the monitoring
> system is over a network. Bonnell teaches that monitoring systems are
> executing over a network protocol. Therefore the combination teaches the
> limitations as disclosed."

Applicant respectfully points out that the Examiner's remarks do not establish that a combination of Joyce an Bonnell disclose Applicant's claimed novel *process*, which *upon opening*, sends a *registration request* to a *process manager*, and then the process manager *identifies the registration to a user interface*.

As the Examiner states: "In addition, since this information is an operation that indicates that a process has initiated or created another process, the information is regis-tration information.", but there is no support in either Joyce or Bonnell that the monitor-ing processes of Joyce send *registration information* to a manager, or process controller.

The citations mentioned by the Examiner from Joyce are:

page 129 paragraph 2-paragraph 6

paragraph 2: "Receiver process . . . entering the system, waiting to receive a message from any process, actually receiving . . . and leaving the system." Similarly the Sender process produces the following events: entering the system . . . searching for the process Receiver, sending a message to process Receiver . . . replying . . . leaving the system."

paragraphs 3-6 do not mention a *process*, which *upon opening*, sends a *registration re-quest* to a *process manager*, and then the process manager *identifies the registration to a user interface*.

pg. 129, 6th paragraph - pg. 130, 2nd paragraph

6th paragraph:

"Figure 5 shows a configuration of the basic monitoring system that includes a controller. A system can contain only one controller; its purpose is to serve as a central site through which all events reported to the channels must pass before they are distributed to the consoles. A controller can be started or terminated at any time without affecting the events received by running consoles.

Consoles are processes that plug into one or more channel event streams. Consoles collect, interpret, and display event information and serve as the interfaces between users and the monitoring system. . . . The simultaneous use of different consoles provides the user with different views of an executing distributed program."

Again, these paragraphs do not mention a *process*, which *upon opening*, sends a *registration request* to a *process manager*, and then the process manager *identifies the registration to a user interface*.

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Referring to the citations in Joyce mentioned hereinabove, none support the contention that a monitoring process sends *registration information* to a manager, or process controller *upon opening of the at least one application or process at the computer workstation.*

Accordingly, Applicant respectfully urges that Joyce or Bonnell, taken either singly or in combination, are legally insufficient to render the presently claimed invention unpatentable under 35 U.S.C. 103(a).

All independent claims are believed to be in condition for allowance.

All dependent claims are dependent from independent claims which are believed to be in condition for allowance. Accordingly, all dependent claims are believed to be in condition for allowance.

Favorable action is respectfully solicited.

Please charge any additional fee occasioned by this paper to our Deposit Account

No. 03-1237.

Respectfully submitted,

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